IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7478 OF 2006

Rani Laxmibai Mahila Prabodhan Prathishthan & Anr.....
Petitioners
V/s
Shaikh Usuf Ibrahim & Others.... .....
Respondents.

Office Notes, Office Memoranda of Coram, appearances Court's orders or directions and Registrar's orders.	))))	Court's or Judge's Orders

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Mr.R.S.Datar, Adv. for the petitioners.

Mr.A.N.Maniyar, Adv. for respondent No.1.

CORAM: A.P. DESHPANDE, J.

22.2.2007

PC:

Rule.

Rule made returnable forthwith.

Taken up for final hearing by consent of the parties.

This petition is filed by the management of a school for disabled/handicaps challenging the order passed by School Tribunal condoning delay in filing appeal dated 19.9.06. The learned counsel for the

petitioner submits that the impugn;ed order is without jurisdiction in as much as the Special Forum is set up to try the appeals of the employees working in the school for disabled under the Special Code for handicaps and no appeal is maintainable before the School Tribunal. It is submitted that the school in question is regulated by the provisions of Persons with Disabilities (Equal opportunities, Protection of Right and Full Participation) Act, 1995 and the service conditions of the employees working in such schools are regulated by provisions of Special Code for handicaps/disabled framed by the State of Maharashtra which, inter alia, provides for Forum to entertain and decide appeals against orders of dismissal or termination. It is submitted by the learned counsel for the petitioner that the impugned order is wholly unsustainable the same being without jurisdiction. Learned counsel appearing for respondent No.1 employee concedes that the appeal is not maintainable before the School Tribunal and the same is to be filed before the Appropriate Authority under the Special Code for disabled/handicaps. Learned counsel

for the respondent No.1 makes a statement that respondent No.1 will withdraw the appeal pending on the file of School Tribunal and he be permitted to file a fresh appeal before the Appropriate Authority under the Special Code for disabled/handicaps. In this view of the matter it is obvious that the impugn;ed order is without jurisdiction and hence deserves to be quashed and set aside. In the result impugned order passed by the School Tribunal condoning delay is quashed and set aside. However respondent No.1 is at liberty to file appeal before Appropriate Forum set up under the Special Code for handicaps/disabled. Respondent No.1 is also granted liberty to move appropriate application seeking condonation of delay before Appropriate Authority along with appeal. Rule made absolute in above terms.

22.2.07